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5 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
6 AT SEATTLE

7 DAVID WYATT MCKENZIE,)

8 Petitioner,)

9 v.)

10 PAT GLEBE,)

11 Respondent.)
_____)

CASE NO. C09-68-RSL

ORDER DISMISSING § 2254 PETITION

12 The Court, having reviewed petitioner's petition for a writ of habeas corpus pursuant to 28
13 U.S.C. § 2254, respondent's motion to dismiss, petitioner's response, the Report and
14 Recommendation of the Honorable Brian A. Tsuchida, United States Magistrate Judge, any
15 objections thereto, and the balance of the record, does hereby find and ORDER:

16 (1) The Court adopts the Report and Recommendation.

17 (2) Respondent's motion to dismiss (Dkt.10) is GRANTED.

18 (3) Petitioner's petition for a writ of habeas corpus (Dkt. 4) and this action are
19 DISMISSED as untimely. *See* 28 U.S.C. § 2244(d).

20 (4) Petitioner's motion to expunge (Dkt.12) is DENIED as moot.

21 (5) The Clerk is directed to send a copy of this Order to petitioner, to counsel for
22 respondent, and to Judge Tsuchida.

23 Dated this 26th day of June, 2009.

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25 Robert S. Lasnik
26 United States District Judge